

Appendix A-Processes for Establishing an MSD

What Is a Municipal Service District (MSD)? It is a defined geographic area within a city in which the city council levies an additional property tax. The additional tax is used to provide extra services or projects that benefit the properties in the district.

An Amendment to the North Carolina Constitution (effective in 1973) Paved the Way for MSDs: The North Carolina Constitution requires, with one exception, that the City's property tax rate is the same throughout the jurisdiction. The exception is based on a provision in the state constitution found in Article V-Finance, Section 2(4)-Special tax areas. This provision authorized the General Assembly to allow cities and counties "to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town." (Amendments to Article V were adopted by North Carolina voters on November 3, 1970. The amended Article V was effective on July 1, 1973.)

The Municipal Service District Act of 1973. Based on this constitutional provision, the General Assembly enacted the Municipal Service District Act of 1973, effective on July 1, 1973. This act was most recently amended in 2015 and 2016. This act, which is in G.S. Chapter 160A, Article 23, allows a city to designate a part of the city as a Municipal Service District (MSD). Within an MSD, a city can levy an additional property tax, and it can use the additional proceeds to provide services in the district. An MSD is not a separate unit of government; it is merely a geographic designation, within which a city may levy extra taxes and provide additional services.

Processes a City Must Follow in Defining an MSD. G.S. 160A-537 of the Municipal Service District Act sets forth the processes a city must follow in defining an MSD. The process is completed when the city council by ordinance defines an MSD. However, before this point is reached, the city council must hold a public hearing. Before the hearing, there must be public notice. (Notice must be mailed to owners of property in the proposed district at least four weeks in advance. Notice must be published at least once not less than one week before the hearing.) At the beginning of the process, the staff must prepare a report on the proposed district.

Report Requirements. The report must be available for public inspection in the office of the city clerk for at least four weeks before the date of the public hearing. The report must contain: (1) a map of the proposed district, showing its proposed boundaries; (2) a statement showing that the proposed district meets the standards set out in subsection (a) of G.S. 160A-537; and (3) a plan for providing in the district one of more of the services listed in G.S. 160A-536.

Standard of G.S. 160A-537(a). This standard states: "A city council of any city may by ordinance define a service district upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city."

Criteria for Certain Kinds of MSDs. The Municipal Service District Act includes criteria for designating certain kinds of MSDs. It is assumed that the report needs to also show that those criteria are met.

List of Purposes for Which MSDs May Be Established. G.S.160A-536 provides a list of purposes for which MSDs may be established. This section also provides examples of services, functions, and facilities. Here is the list of the purposes:

- (1) Beach erosion control and flood and hurricane protection work.
- (1a) Historic district projects.
- (2) Downtown revitalization projects.
- (2a) Urban area revitalization projects.
- (2b) Transit-oriented revitalization projects.
- (3) Drainage projects.
- (3a) Sewage collection and disposal systems of all types.
- (3b) Lighting at interstate highway interchange ramps.
- (4) Off-street parking facilities.
- (5) Watershed improvement projects.
- (6) Conversion of private residential streets to public streets.

MSDs Established in North Carolina. It is believed that most cities in North Carolina that have adopted an MSD since the Municipal Service District Act was enacted have done so for downtown revitalization purposes and projects. For example, according to information compiled by the City of Winston-Salem in 2012, there were 48 municipalities in North Carolina with a Business Improvement District and a total of 54 districts (5 in Charlotte, 2 in Raleigh, and 2 in Hendersonville.) It is our understanding that the City of Charlotte has established an “urban area” MSD in the South End section of Charlotte.

MSDs Established in Fayetteville. In Fayetteville, past City Councils have established two (2) MSDs. The first was in the Downtown area; it was established in 1978, and it has been renewed on a five-year basis since. It was last renewed on June 25, 2018. The second was along the eastern side of Lake Valley Drive; it was established in 2011.